

INFORMATION SHEET
“THE MONTANA MILITARY SERVICE EMPLOYMENT RIGHT ACT”(MMSERA”)

Senate Bill 118 established the “Montana Military Service Employment Rights Act”(MMSERA”). MMSERA provides employment and reemployment protections for those members of the Montana organized militia or federal reserves, when they are not covered by the federal “Uniformed Services Employment and Reemployment Rights Act of 1994”, 38 U.S.C. 4301, et seq., or other applicable federal laws. MMSERA was passed by the 2005 Montana State Legislature and became effective in April 2005, upon signature by the Governor of the State of Montana.

MMSERA prohibits an employer from denying employment, reemployment, reinstatement, retention, promotion, or any benefit of employment because of a person’s membership or potential application for membership in the state organized militia. MMSERA entitles a member to an unpaid leave of absence to perform state active duty. MMSERA also enumerates reemployment rights of members to return to employment without loss of specified benefits (ex. seniority, status, pay, pension and health insurance.)

MMSERA gives public employees fifteen (15) days of paid military leave, per year, for those employees who are called to military service as part of the state organized militia or federal reserves. The Act also clarifies and updates military leave provisions relating to elected and public officials. These provisions include restoration to office and how an acting official will be appointed when the primary office holder is away on a military leave of absence.

MMSERA provides expanded and meaningful enforcement of its protections by providing complaint procedures, informal resolution, and court remedies. MMSERA enumerates the duties and powers of the Montana Department of Labor and Industry and the Montana State Attorney General to enforce MMSERA. MMSERA also provides for rule-making authority to enable the Montana Department of Labor and Industry and the Montana Attorney General’s Office to carry out enforcement responsibilities.

MMSERA updates a section of the Montana Code Annotated, Public Employees Retirement System, General Provisions, as it relates to “service credit” for state active duty. MMSERA also amends provisions related to unemployment insurance benefits. MMSERA repeals those sections of Title 10, which have either become outdated or will be superseded by MMSERA.

CONCLUSION

MMSERA updates and clarifies employment protections for those members who serve in the Montana organized militia or the federal reserves. MMSERA was drafted in consultation with the Montana Department of Labor and Industry and the Montana Attorney General’s Office, both of which will play key roles in the enforcement of MMSERA’s rights and protections.